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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,077	01/20/2004	Wen Li	M4065.0346/P346-A	7165

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Washington, DC 20006-5403

EXAMINER
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ELAMIN, ABDELMONIEM I

ART UNIT	PAPER NUMBER
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2116

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/759,077	<b>Applicant(s)</b> LI ET AL.	
	<b>Examiner</b> Abdelmoniem Elamin	<b>Art Unit</b> 2116	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 50-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 50-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/20/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

2. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR

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3.73(b).

3. Claims 50-78 are rejected on the ground of nonstatutory double patenting over claims 1-46 of U. S. Patent No. 6,704,881 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

4. Claims 50, 60 essentially repeat all the features listed in claim 1 of U. S. Patent No. 6,704,881. The omission of an element with a corresponding loss of function is an obvious expedient. See *In re Karlson*, 136 USPQ 184 and *Ex parte Raina*, 168 USPQ 375.

5. Claims 51, 61 essentially repeat all the features listed in claim 2 of U. S. Patent No. 6,704,881.

6. Claims 52, 62 essentially repeat all the features listed in claim 3 of U. S. Patent No. 6,704,881.

7. Claims 53, 64 essentially repeat all the features listed in claim 5 of U. S. Patent No. 6,704,881.

8. Claims 54, 65 essentially repeat all the features listed in claim 8 of U. S. Patent No. 6,704,881.

9. Claims 55, 66 essentially repeat all the features listed in claim 10 of U. S. Patent No. 6,704,881.

10. Claims 56, 67 essentially repeat all the features listed in claim 13 of U. S. Patent No. 6,704,881.

11. Claims 57, 68 essentially repeat all the features listed in claim 14 of U. S. Patent No. 6,704,881.

12. Claims 58, 69 essentially repeat all the features listed in claim 15 of U. S. Patent No.

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6,704,881.

13. Claims 59, 63 essentially repeat all the features listed in claim 4 of U. S. Patent No. 6,704,881.

14. Claim 70 essentially repeats all the features listed in claim 1 of U. S. Patent No. 6,704,881.

15. Claim 71, essentially repeats all the features listed in claim 26-32 of U. S. Patent No. 6,704,881. The omission of an element with a corresponding loss of function is an obvious expedient. See *In re Karlson*, 136 USPQ 184 and *Ex parte Raina*, 168 USPQ 375.

16. Claim 72 essentially repeats all the features listed in claim 26 of U. S. Patent No. 6,704,881.

17. Claim 73 essentially repeats all the features listed in claim 27 of U. S. Patent No. 6,704,881.

18. Claim 74 essentially repeats all the features listed in claim 28 of U. S. Patent No. 6,704,881.

19. Claim 75 essentially repeats all the features listed in claim 30 of U. S. Patent No. 6,704,881.

20. Claim 76 essentially repeats all the features listed in claim 29 of U. S. Patent No. 6,704,881.

21. Claim 77 essentially repeats all the features listed in claim 32 of U. S. Patent No. 6,704,881.

22. Claim 78, essentially repeats all the features listed in claim 34 of U. S. Patent No. 6,704,881. The omission of an element with a corresponding loss of function is an obvious

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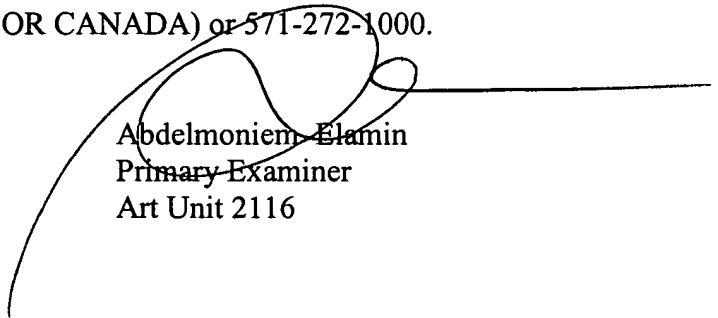
expedient. See *In re Karlson*, 136 USPQ 184 and *Ex parte Raina*, 168 USPQ 375.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdelmoniem Elamin whose telephone number is 571-2727-3674. The examiner can normally be reached on MON - THUR 10:00 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 571-272-3670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Abdelmoniem Elamin  
Primary Examiner  
Art Unit 2116

September 3, 2006